THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.22453 OF 2005

DATED:20.10.2005

Between:

Smt. Ch.Bala Chennamma

W/o.John Silas

Sarpanch, Dudyala Gram Panchayat

Kottapalli Mandal, Kurnool district

…Petitioner

And

The Government of Andhra Pradesh,

rep. by its Principal Secretary, Panchayat Raj Dept.

Secretariat, Hyderabad and others

…Respondents

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ORDER:

The petitioner is Sarpanch of Dudyala Gram Panchayat, Kottapalli Mandal, Kurnool District. Third respondent initiated enquiry against the petitioner based on the report of the fifth respondent. In the show cause notice dt.5.5.2005 issued by third respondent four charges were framed; that the Sarpanch failed to conduct meeting of Gram Panchayat from 21.6.2003; that the Sarpanch committed irregularities in converting open step well to protected well; she committee irregularities in the distribution of rice and cash to ISL beneficiaries; and that the Sarpanch conducted the auction of Pedacheruvu and without informing the higher authorities confirmed

the auction. The petitioner submitted explanation. But, by proceedings dt.6.6.2005 third respondent rejected the explanation and ordered removal of the Sarpanch under sub-section (1) of Section 249 of the A.P.Panchayat Raj Act, 1994 (for short, the Act). Aggrieved by the same, the petitioner preferred an appeal under sub-section (7) of Section 249 of the Act before the second respondent, who by proceedings dt.25.7.2005 dismissed the appeal. The petitioner then approached the first respondent by way of revision under Section 264 of the Act. The Government have also dismissed the revision petition by the impugned G.O.Rt.No.1722, dt.10.10.2005. Aggrieved by the same, the petitioner preferred the present Writ Petition seeking a Writ of Mandamus to set aside the same.

The learned Senior Counsel for the petitioner, Sri T.Bali Reddy, *inter alia* raised two contentions. First, he would urge that the report of the fifth respondent which was the basis for enquiry initiated by the third respondent was not furnished to the petitioner thereby violating the principles of natural justice and the law laid down by this Court in **D.Sathi Reddy v. Commissioner, Panchayat Raj.** He would also submit that the appellate authority as well as the revisional authority have rejected the petitioner's appeal/revision in a routine manner without giving reasons though the petitioner raised various contentions before the appellate authority as well as the revisional authority.

I have also heard the learned Government Pleader for Panchayat Raj, Sri Janaki Rami Reddy.

A reading of the appellate order would show that in the memorandum of appeal the petitioner raised as many as six grounds. Curiously, second respondent has not even framed points for consideration with reference to each of the ground or a group of grounds, and in a taciturn manner dismissed the appeal observing as under.

> After hearing both the parties and verifying the material available in the record, I came to a firm and consistent conclusion that an opportunity has been provided to the appellant by supplying a copy of the inquiry report of the DI.P.O., Kurnool to the appellant. I find that there are no fresh reasons to interfere with the orders of the Collector (PW), Kurnool issued in Roc.No.2935/Pts/A1/04, dated 6.6.2005. Accordingly, the order issued by the Collector (PW), Kurnool in removing appellant from the O/o Sarpanch, Dudyala Gram Panchayat, Kothapalli (M), Kurnool District, holds good and appeal is dismissed.

The Government while considering the revision petition also did not give any reasons and rejected the revision petition observing as under.

> The case was posted for hearing on 28.9.2005. The District Panchayat Officer, Kurnool and the Sarpanch attended the hearing. After hearing and perusal of records, Government find that Smt.Ch.Bala Chennamma, Sarpanch, Dudyala Gram Panchayat of Kothappli Mandal, Kurnool District has abused the position and powers vested in her as the charges levelled against her have been proved. Hence the stay orders issued in the Govt. Memo 4$^{th}$ read above is hereby vacated. The orders issued in Proceedings Appeal 92/CPR&RE/D1/05, dt.25.7.2005 in confirming the removal orders

issued in Procds. No.2935/Pts.A1/2004, dated 6.6.2005 of the District Collector (PW) Kurnool, are hereby confirmed and Revision Petition is disposed of accordingly.

As held by this Court in **Sathi Reddy's case** (supra) while removing a Sarpanch of the Gram Panchayat, who is elected by the method of direct election by the entire constituents of the Gram Panchayat there should be strong grounds for removing such Sarpanch. The law requires strict adherence to the conditionalties attracting removal. Under sub-section (1) of Section 249 of the Act, a person occupying elected office cannot be removed in a light manner putting the democracy in peril. When the panchayats are now given constitutional status by reason of Part-IX of the Constitution of India, either the District Collector, Commissioner of Panchat Raj or the Government cannot pass orders while exercising powers under Section 249 (1) of the Act in a routine manner. Whether there are strong reasons for removing Sarpanch can only be appreciated if the appellate authority/revisional authority apply their mind properly, discus the case of the department and the case of the delinquent Sarpanch in the light of the law. Every order passed by the competent authority should indicate that the authority has understood the provisions of the law properly and after appreciating facts, reached proper conclusions before applying the principles of law. At the stage of judicial review, it becomes all the more important as otherwise, the fundamental right to judicial review would be a mirage as this Court would not be able to effectively review the decisions of the Commissioner and/or the Government. This Court, after perusing the orders of the second respondent as well as the first respondent is not able to discern any principle or reason which weighed with the appellate authority or the revisional authority in rejecting the petitioner's grievance. Therefore, this Writ Petition has to be allowed and the matter has to be remitted to the appellate authority for giving proper reasons.

Accordingly, the Writ Petition is allowed. The orders of respondents 1 and 2 are set aside and the matter is remitted to second respondent for giving fresh disposal within a period of four weeks after giving notice to the petitioner. Till the matter is disposed of, there shall be status quo as on the date of impugned G.O.

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(V.V.S.RAO, J)

20.10.2005

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